

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STANLEY PATRICK WEBER,

Defendant.

Criminal Docket
No. CR 18-14-GF-BMM

Partial Transcript of Trial with a Jury
Testimony of Daniel Martin

Missouri River Federal Courthouse
125 Central Avenue West
Great Falls, MT 59404
Wednesday, September 5th, 2018
11:07 a.m. to 12:04 p.m.

BEFORE THE HONORABLE BRIAN MORRIS

UNITED STATES DISTRICT COURT JUDGE

Yvette Heinze, RPR, CSR
United States Court Reporter
Missouri River Federal Courthouse
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Proceedings recorded by machine shorthand
Transcript produced by computer-assisted transcription

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DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

PROCEEDINGS

(Open court.)

(Defendant present.)

(Jury present.)

(Whereupon, during the above-entitled trial, testimony of Daniel Martin proceeded as follows:)

THE COURT: Mr. Starnes, please call your next witness.

MR. STARNES: Thank you, Your Honor. The United States calls Daniel Martin.

DANIEL MARTIN,

called for examination by counsel for the government, after having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

THE COURT: Good morning, sir.

THE WITNESS: Good morning.

THE COURT: Would you please state your full name.

THE WITNESS: Daniel Joseph Martin.

THE COURT: Go ahead, Mr. Starnes.

MR. STARNES: Thank you.

DIRECT EXAMINATION

BY MR. STARNES:

Q. Good morning, Mr. Martin. Can you hear me okay?

A. Yes.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Okay. Do me a favor. Would you just pull that microphone
2 a little bit closer to you.

3 A. (Complying.)

4 Q. Thank you. That's so the jury can hear what you have to
5 say today, sir. Okay?

6 Daniel, the first thing I want to ask you about is
7 where are you currently living?

8 A. I live in Pine Ridge.

9 Q. Okay.

10 A. South Dakota.

11 Q. Are you currently incarcerated?

12 A. Yes.

13 Q. And who has you under arrest right now?

14 A. The marshals.

15 Q. United States Marshals?

16 A. Yes.

17 Q. Now, are you currently facing federal charges, or are you
18 facing state charges?

19 A. State charges.

20 Q. Which state?

21 A. South Dakota.

22 Q. Okay. Do you have any prior felony convictions, sir?

23 A. Yes.

24 Q. Out of where?

25 A. South Dakota.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. What were they for?

2 A. Assault.

3 Q. How many?

4 A. One.

5 Q. One felony assault?

6 A. Yes.

7 Q. And did you get some time for that?

8 A. Yes.

9 Q. How much time?

10 A. 15 months.

11 Q. When did that occur?

12 A. 2012.

13 Q. 2012.

14 Any other prior felony convictions?

15 A. DUIs.

16 Q. DUIs.

17 Where did those take place?

18 A. South Dakota.

19 Q. Okay. And do you know how much time you got for those?

20 A. 30 days.

21 Q. 30 days.

22 A. Yeah.

23 Q. Okay. Daniel, I want to talk to you a little bit about

24 where you are from. So you mentioned you are from South

25 Dakota. Where in South Dakota?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 A. Pine Ridge.

2 Q. And what's Pine Ridge?

3 A. It's a reservation.

4 Q. Is there a group of federally recognized Indians that live
5 on the Pine Ridge Reservation?

6 A. Yes.

7 Q. What group is that?

8 A. Oglala Sioux.

9 Q. Oglala Sioux?

10 A. Yes.

11 Q. Are you Oglala Sioux?

12 A. I'm half and half.

13 Q. Half and half?

14 A. Yes.

15 Q. Okay. How old are you today?

16 A. 32.

17 Q. And what year were you born?

18 A. 1986.

19 Q. Now, your time living on the Pine Ridge Indian
20 Reservation, did you ever encounter an individual you know as
21 Dr. Stanley Weber?

22 A. Yes.

23 Q. Where did you encounter that person?

24 A. At IHS.

25 Q. At IHS.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Is that the Indian Health Services?

2 A. Yes.

3 Q. And was it there at the Pine Ridge Indian Reservation?

4 A. Yes.

5 Q. Okay. The person that you know as Dr. Weber, do you see
6 that person in this courtroom today?

7 A. Yes.

8 Q. Okay. Do you think you would be able to indicate where
9 that person is sitting or located, I should say?

10 A. Yes.

11 Q. Would you please indicate where that person is located by
12 pointing to that person and describing an article of clothing
13 that person is wearing?

14 A. Blue. Blue suit. Blue tie. White shirt.

15 MR. STARNES: Okay. The record will reflect that the
16 witness has identified the defendant as Dr. Weber.

17 THE COURT: The record will reflect.

18 BY MR. STARNES:

19 Q. So, Daniel, I want to show you a photograph.

20 MR. STARNES: Could we have Government's Exhibit 6,
21 please, Madam Clerk.

22 (Displayed.)

23 BY MR. STARNES:

24 Q. Do you see that screen in front of you?

25 A. Yes.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Are you able to see this picture?

2 A. Yes.

3 Q. Do you know who's in that picture?

4 A. Yes.

5 Q. Who is that?

6 A. Dr. Weber.

7 MR. STARNES: Okay. Thank you, Madam Clerk.

8 (Removed.)

9 BY MR. STARNES:

10 Q. Daniel, how old were you when you first met Dr. Weber?

11 A. 7. 8. 8 years old.

12 Q. Okay. Do you know for sure you were 7 or 8, or is that
13 your best recollection?

14 A. My best.

15 Q. Best recollection.

16 Okay. Where did you first meet Dr. Weber?

17 A. It was the old hospital.

18 Q. If you could do me a favor and just bring that microphone
19 a little bit closer to your mouth.

20 (Complying.)

21 THE WITNESS: I believe it was the old hospital.

22 BY MR. STARNES:

23 Q. The old hospital in Pine Ridge?

24 A. Yes.

25 Q. Okay. Did you go to the hospital?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 A. Yes.

2 Q. What were you going for?

3 A. I couldn't really remember. I was in and out of the
4 hospital a lot. It was for asthma. But this time I believe it
5 was because I got -- I got burned on my chest.

6 Q. Who took you to the hospital?

7 A. My stepdad and my mom.

8 Q. What happened when you got there?

9 A. It -- well, um -- I'm not really sure. I, um -- I went
10 into one of the -- went into the room, the doctor's room. And
11 my parents -- my parents waited outside. I was -- I was
12 treated for a burn, and I'm pretty...

13 Q. Daniel, if you could do me a favor and just speak up a
14 little bit. I understand this is going to be difficult for
15 you.

16 Let me make sure I understand what you are telling us
17 before we continue further. So your stepdad took you to the
18 hospital to treat you for a burn; is that right?

19 A. Yes.

20 Q. When you got to the hospital, you went into the room, the
21 treatment room, but your parents stayed outside?

22 A. Yeah, this -- yeah, this was the first time. Like I...
23 yeah, where I had a run-in.

24 Q. Did you see a doctor that day?

25 A. Yeah.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Which doctor did you see?

2 A. It was Dr. Weber.

3 Q. What happened during that visit with Dr. Weber?

4 A. I got treated for my burns at that time.

5 Q. Okay. Did you ever have -- well, how many more encounters
6 do you remember having with Dr. Weber?

7 A. Like, from about -- about then on, every -- every visit I
8 had towards the hospital I seen Dr. Weber.

9 Q. Okay. Did you ever have any encounters with Dr. Weber as
10 your physician that you thought something inappropriate
11 happened?

12 A. Yes.

13 Q. How many times?

14 A. Four.

15 Q. Let's talk about the first time. Okay. When's the first
16 time that you had an encounter with Dr. Weber where you thought
17 something inappropriate happened?

18 A. I had -- well, the first time -- the first time I remember
19 I -- like, he was doing -- the first time I met him, he was
20 doing a check on me, and I -- you know, listened to -- he
21 listened to my breathing. I laid back, and he was -- you know,
22 just checking over me. Checked my mouth. You know, my ears.

23 And then he had -- then this -- the first time, you
24 know, he was, like, feeling on my stomach or pressing on my
25 stomach. And he would -- he was going -- you know, he made his

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 way lower by the -- he made his way lower by the -- I had to
2 pull down my -- well, I had to pull down my pants, my jogger
3 suit a little bit, and he was, you know, just feeling -- just
4 kind of like pressing on me, and then he got lower towards the
5 lower half of my stomach and it kind of -- just kind of tickle
6 a little, tickled. And he -- yeah, he went lower and lower
7 and -- and then he -- I don't know. He held my -- my
8 testicles, you know, like, whatever. You know, I had to cough.
9 And then -- and then -- and then that time he put his finger --
10 he put his finger up my butt.

11 Q. In your rectum?

12 A. Yes.

13 Q. Okay. So you just gave us a lot of information, Daniel,
14 and I just want to make sure I understand it.

15 So the first time you had this inappropriate
16 encounter with Dr. Weber you were at the hospital?

17 A. Yes.

18 Q. And he was doing a checkup on you?

19 A. Yes. Yeah, I just -- I just remember it being like a
20 checkup. You know, it was -- like, listening to my breathing.

21 Q. Checking the normal things?

22 A. Yes.

23 Q. And you said he put his hands on your stomach at some
24 point?

25 A. Yeah, just like -- like pressing -- pressing on my stomach

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 at different places.

2 Q. And then at some point he touched your testicles you said?

3 A. Yes.

4 Q. And you said after he touched your testicles, there was a
5 point in time where he put one of his fingers into your
6 buttocks?

7 A. Yes.

8 MR. STEINBERG: Judge, I'm going to object. It's
9 leading and repetitious of the testimony.

10 THE COURT: Overruled.

11 Careful about the leading stuff, Mr. Starnes.

12 MR. STARNES: Thank you, Your Honor.

13 THE COURT: I'll allow you to have him summarize, but
14 don't put words in his mouth.

15 MR. STARNES: Thank you.

16 BY MR. STARNES:

17 Q. Do you know how old you were when this happened?

18 A. Around 8, 8 years old.

19 Q. Around eight.

20 And do you remember how many fingers he used?

21 A. Just -- just one.

22 Q. What did you do once he stuck his finger in your rectum?

23 A. I was just -- it hurt. That was it.

24 Q. Do you know what caused him to stop?

25 A. No.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Okay. How long did it last? Do you know?

2 A. It was just like -- just like in and out.

3 Q. When was the next time that you had an encounter with
4 Dr. Weber?

5 A. Maybe a couple -- few weeks, a few weeks later. Not
6 really too sure. Every time -- every time I went to the
7 hospital, like I said, I seen him. But the second time, it
8 wasn't too long later.

9 Q. When you say, "Not too long," are we talking weeks?
10 Months?

11 A. Maybe weeks.

12 Q. Weeks.

13 What did you see Dr. Weber for on that second
14 occasion?

15 A. Asthma.

16 Q. Tell us what happened during that visit.

17 A. The second -- the second time it was -- the second time it
18 was like -- I don't know. Like the usual routine and -- but
19 this -- this time, though, instead of -- you know, instead of
20 laying down, you know, on my back, I was standing.

21 Q. Where were you standing?

22 A. His -- I don't know what you call those tables, but they
23 have chairs or steps that slide out, like steps. And then
24 where you -- where the bed's at, I was standing on, probably,
25 the -- maybe second -- the second step.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Who else was in the room with you at the time?

2 A. Just me and Dr. Weber.

3 Q. What were you wearing?

4 A. Some -- some joggers. Really, I couldn't really remember
5 what I was wearing. But, yeah, I was just always in joggers.

6 Q. So you are using that term, "joggers." Describe what
7 joggers are?

8 A. Like, just like sweatpants.

9 Q. Okay.

10 A. When I was -- like, when I was younger, I was -- I was,
11 you know, kind of -- kind of a big kid. And that's the only
12 thing that Mom ever bought me was the sweatpants.

13 Q. So you are in the room with Dr. Weber. You're wearing
14 sweatpants. You're standing on the second step. What happens?

15 A. Since like -- I don't know. Like, the usual. You know,
16 routine check. You know, check me with the -- I don't know
17 what you call it, how you say it but -- you know, standing
18 there -- yeah, then he tells -- then he tells me to, you know,
19 pull my -- you know, pull my pants down, so I pull them down,
20 and...

21 Q. So he told you to pull your pants down?

22 A. Yes.

23 Q. Did you?

24 A. Yes.

25 Q. What happened after that?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 A. He says -- tells -- "We're going to try -- try something."

2 You know, I don't know how you -- how you really explain it.

3 Q. Just do the best you can, Daniel.

4 So he said, "We're going to try something." What
5 happened?

6 A. Yeah. He had a -- his -- he had a clear tube, and -- and
7 he put -- like, he put his fingers, his two fingers.

8 Q. Where did he put his two fingers?

9 A. In my butt.

10 Q. Do you know how long he -- or what did he do once he put
11 his fingers in your butt?

12 A. I don't know. Just, like -- like, um -- he would say, you
13 know, just -- you know, not like getting -- I don't know. Had
14 his hand and on my penis and, you know, played with it, but...

15 Q. Okay. So let me ask you this: You said he had two of his
16 fingers from one of his hands in your buttocks; is that right?

17 A. Yes.

18 Q. What was his other hand doing?

19 A. It was on my penis.

20 Q. And what was he doing with that other hand on your penis?

21 A. Like, he was stroking it.

22 Q. Do you know how long this went on for?

23 A. It wasn't long.

24 Q. Did you get an erection during this incident?

25 A. Yes.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Did you ejaculate during this incident?

2 A. Yes. I thought so.

3 Q. Had that ever happen to you before?

4 A. No.

5 Q. Was anybody else in the room during this?

6 A. No.

7 Q. What happened when it was over?

8 A. Nothing.

9 Q. During the time that this was going on, did Dr. Weber say
10 anything to you?

11 A. Just asked me how it felt.

12 Q. What did you say?

13 A. I didn't know what to say. I didn't -- I didn't -- it
14 didn't feel right, but at the same time it didn't feel bad.

15 Q. Okay. Now, you mentioned that there was a third incident
16 where you had an encounter with Dr. Weber that was
17 uncomfortable or inappropriate; right?

18 And, Daniel, if you need a second, there is some
19 water there in front of you. If you need a drink of water, you
20 help yourself. Okay?

21 Okay. So let's move to the third incident then.
22 Where did this take place?

23 A. It was in the...

24 MR. STARNES: Your Honor, may I approach the witness
25 with some Kleenex?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 THE COURT: He has some.

2 MR. STARNES: Oh, thank you.

3 BY MR. STARNES:

4 Q. So, Daniel, the third incident, where did that take place?

5 A. IHS.

6 Q. Same place as before?

7 A. Yes.

8 Q. The IHS in Pine Ridge?

9 A. Yes.

10 Q. Do you know what you were -- do you know how long after
11 the second visit that you were there?

12 A. About a few weeks. It wasn't along, again.

13 Q. And do you know what you were going to IHS for that third
14 time?

15 A. It was -- it was for my asthma again.

16 Q. Okay. Did you see a physician that day?

17 A. Yes.

18 Q. Who did you see?

19 A. Dr. Weber.

20 Q. Where did you see him?

21 A. In -- at the IHS in the-- it was in the clinic.

22 Q. Okay. Were you in the room with him?

23 A. Yes.

24 Q. Same setting as before?

25 A. Same setting.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Was anybody else in the room with you?

2 A. No. I always went back -- always went back alone.

3 Q. And what happened when you were in the room being treated
4 by Dr. Weber?

5 A. The third time was -- third time it was -- it was the
6 same, the same setting. I was still standing on the second --
7 the second -- second step, the same way.

8 Q. When you say that you were standing on the step, which
9 direction were you facing?

10 A. Towards -- towards the -- towards the bed, the mat and the
11 seat.

12 Q. Okay. I want to back up for just a second. When you told
13 us about what happened during the second visit and you were
14 also standing on the second step, do you remember which
15 direction you were facing when you were standing on the step?

16 A. The same way.

17 Q. The same way.

18 A. Yeah.

19 Q. Okay. So take it back to this third time. You are in the
20 room with Dr. Weber. You are standing on the step facing
21 towards the table.

22 A. Yes.

23 Q. What happens?

24 A. It was -- it was the same as before, but this time I --
25 instead of standing straight up, I was -- I was leaning -- I

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 was laying forward on the -- on the seat.

2 Q. You said you were leaning forward?

3 A. Yeah, like...

4 Q. Where were your hands?

5 A. They were by my head.

6 Q. Were you lying on the seat, or were you just sort of
7 leaning up against it?

8 A. Kind of like -- like in a -- like bent over but standing.

9 Q. Okay. Where was Dr. Weber?

10 A. He was -- he was behind me.

11 Q. How did you get into the position that you are describing
12 for us?

13 A. Started out -- started out the same with his -- not so
14 much of his chest but, you know, his -- just -- he said, "We're
15 going to try something -- try something different -- try
16 something different this time."

17 Q. So what happened?

18 A. Still just -- this clear tube -- but this time -- this
19 time -- this time he -- this time it wasn't -- he didn't use
20 his fingers. He used his like -- his penis.

21 Q. You said this time he didn't use his fingers; he used his
22 penis?

23 A. Yes.

24 Q. And where did he put his penis?

25 A. In my butt.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. What did he do once he put his penis in your butt?

2 A. It didn't -- it didn't last long.

3 Q. I'm sorry?

4 A. I said it didn't last long.

5 Q. What did he do once he put his penis in your butt?

6 A. Yeah. I don't know. I -- I don't know how to explain it.

7 I mean...

8 Q. Just do the best you can, Daniel.

9 A. I don't know, just -- I don't know. Pumped. Pumped down
10 on -- like --

11 Q. You said he pumped?

12 A. Pumped, yeah, like -- I -- I felt him.

13 Q. Do you know how long he did that for?

14 A. Didn't last long.

15 Q. Okay. Do you remember how it felt?

16 A. I don't -- I just -- it didn't feel good. It felt like --
17 I don't know.

18 Q. Did you say anything to Dr. Weber?

19 A. Told him, you know -- told him it hurt.

20 Q. Did you ask him to stop?

21 A. I -- I didn't know how.

22 Q. Did he say anything to you?

23 A. No.

24 Q. Do you know if Dr. Weber ejaculated during that encounter?

25 A. No, I don't know.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. You don't know if he did or didn't.

2 Did you ejaculate during that encounter?

3 A. Yeah.

4 Q. What happened when Dr. Weber stopped?

5 A. He got -- oral.

6 Q. I'm sorry?

7 A. He gave oral -- you know, oral. He put his mouth...

8 Q. During this same visit?

9 A. Yes.

10 Q. And where did he put his mouth?

11 A. On my penis.

12 Q. What did he do once he put his mouth on your penis?

13 A. Just -- it was -- just had it in his mouth. Sucked on it.

14 Q. Okay. Did anything else happen during that encounter?

15 A. No.

16 Q. That was the third time that you talked about having an
17 inappropriate encounter with Dr. Weber. Let's talk about the
18 last time, the fourth time.

19 Do you know when that occurred?

20 A. No.

21 Q. Do you know how long after the previous incident it
22 occurred?

23 A. It was a while.

24 Q. Okay. Where did the encounter take place?

25 A. At IHS.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Same place as before?

2 A. Yeah.

3 Q. Do you know what you were going to see the physician for?

4 A. It was a physical.

5 Q. Do you know what the physical was for? Was it like an
6 annual checkup or a sports physical or school physical?

7 A. For school.

8 Q. For school.

9 A. Yeah.

10 Q. Do you recall how old you were?

11 A. I was maybe about 9, 10 -- 9, you know.

12 Q. Okay. Who did you see for the physical?

13 A. Dr. Weber.

14 Q. Was anybody else around when you saw Dr. Weber?

15 A. No.

16 Q. Where did the physical take place?

17 A. In IHS.

18 Q. Was it in a room?

19 A. Yes.

20 Q. What kind of room?

21 A. One of the -- one of the clinic rooms, rooms in the
22 clinic, outpatient clinic.

23 Q. Examination rooms?

24 A. Yes.

25 Q. What happened during that visit?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 A. At that time it was -- that time it was oral, just oral,
2 just oral sex.

3 Q. You said it was just oral sex?

4 A. Yes.

5 Q. How did the oral sex take place?

6 A. The oral -- the oral was, you know, just him -- just kind
7 of -- just kind of grabbed for it.

8 Q. Let me ask you this: What were you wearing when you went
9 in to see Dr. Weber on that occasion?

10 A. It was -- this time I was -- I was in some shorts.

11 Q. Okay.

12 A. Like some jean shorts.

13 Q. Were you asked to remove any clothing during the physical?

14 A. I had -- I had to remove my shirt.

15 Q. You had to remove your shirt?

16 A. Yeah.

17 Q. And who would have asked you to remove your shirt?

18 A. Weber. Dr. Weber.

19 Q. And at what point during the physical did it move to oral
20 sex?

21 A. It was almost -- it was at the end of the physical. I had
22 to -- I had to do -- I had to do a couple other things first.

23 Q. Okay. And how did -- well, who provided oral sex on who?

24 A. Dr. Weber on me.

25 Q. So Dr. Weber provided oral sex on you?

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 A. Yes.

2 Q. And we're talking about oral sex. What specifically does
3 that mean?

4 A. Just -- just his mouth -- his mouth on my penis.

5 Q. Okay. What did he do once he put his mouth on your penis?

6 A. Just, you know -- just sucked on it until I -- until I --
7 until I came.

8 Q. Until you ejaculated?

9 A. Yes.

10 Q. Okay. During that process, did Dr. Weber say anything to
11 you?

12 A. No.

13 Q. Did you say anything to him?

14 A. No.

15 Q. So, Daniel, I know this has been tough on you today. Can
16 you tell us why -- why this is so tough on you to talk about?

17 A. I never talked about it with anybody. I mean -- years
18 later, I mean -- I -- I hated my mom and everybody.

19 Q. Why is that?

20 A. Because they weren't in the room with me.

21 Q. Did you ever have an opportunity to tell your mom or
22 anybody else about what happened to you?

23 A. Plenty.

24 Q. And did you tell them about what happened?

25 A. No.

DANIEL MARTIN - DIRECT EXAMINATION BY MR. STARNES

1 Q. Why not?

2 MR. STEINBERG: Objection. Relevance.

3 THE COURT: Overruled.

4 THE WITNESS: I don't know. Just tried to get over
5 it.

6 MR. STARNES: Okay. Daniel, stand by for just one
7 minute. That may be all the questions I have for you. I just
8 need to check something.

9 May I have a moment, Your Honor?

10 THE COURT: You may.

11 (Off-the-record discussion between Mr. Starnes and
12 Ms. Suek.)

13 BY MR. STARNES:

14 Q. Daniel, just one last area. Who was the first person that
15 you told something happened to you?

16 A. My wife.

17 Q. Your wife?

18

19 A. We -- my wife. I talked about some of it with my friend
20 Joe.

21 Q. Your friend Joe. Okay.

22 When was the first time you disclosed all of the
23 details of what happened to you?

24 A. I never really -- never really talked about it. The only
25 time I ever talked about it, the details, everything, was with

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1 was Curt.

2 Q. And who is Curt?

3 A. Curt Muller, he's -- he was -- I don't know what you call
4 him. Was an investigator. He's -- the card he gave me said,
5 "Health" -- "Health and Human Resources," yeah.

6 Q. When did you speak with him that time?

7 A. This is back in April.

8 Q. Which year?

9 A. Of this year.

10 Q. Of 2018?

11 A. Yes.

12 Q. Why did you finally tell Curt Muller about what happened
13 to you?

14 A. I knew it was coming.

15 MR. STARNES: Thank you. No further questions, Your
16 Honor.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. STEINBERG:

20 Q. I have a few questions, if I could, Mr. Martin. Let me
21 know when you are ready. Okay?

22 A. I'm ready.

23 Q. Thank you, sir.

24 First off, I want to confirm something. All of these
25 events that you've described took place at the old hospital;

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1 correct?

2 A. No.

3 Q. Which events took place at the old hospital?

4 A. All of them except the first.

5 Q. Okay. So I want to go back. The first one did not take
6 place at the old hospital?

7 A. No.

8 Q. Where did that take place?

9 A. The old hospital.

10 Q. Okay. I'm confusing you so -- and I apologize. Let me
11 start again.

12 Did all of these events take place at the old
13 hospital?

14 A. No.

15 Q. Okay. Where did the first event take place?

16 A. At the old hospital.

17 Q. Where did the second event take place?

18 A. The new hospital.

19 Q. At the new hospital?

20 A. (Nodding.)

21 Q. And the third event?

22 A. New hospital.

23 Q. And the fourth event?

24 A. Had to be the new.

25 Q. I'm sorry?

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1 A. Had to be in the new. That's the only -- the only way --
2 the only reason I said it was old and new hospital is just what
3 I really remember about it was the settings of the lights.

4 Q. Okay. Let's talk about that. First off, do you know when
5 the new hospital opened up?

6 A. I couldn't remember. I was younger.

7 Q. Okay. And there was an old hospital that had very dim
8 lighting; correct?

9 A. Yes.

10 Q. And it was small; correct?

11 A. Yes.

12 Q. And everything was tightly fit in. Fair enough?

13 A. Yes.

14 Q. Now, have you told us about all of the encounters you had
15 with Dr. Weber?

16 A. The sexual encounters, yes.

17 Q. You've told us all of them; correct?

18 A. Yes.

19 Q. Do you remember telling Mr. Muller that you thought that
20 you had sexual intercourse with Dr. Weber on at least nine or
21 ten different times?

22 A. It seemed like a lot.

23 Q. When he asked you, you said nine or ten different times;
24 correct?

25 A. I said several.

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1 Q. Well, he wrote down nine or ten. Would that have been
2 wrong? Actually, you said it on tape. So when you said nine
3 or ten, were you accurate or inaccurate?

4 A. I'm not really sure how many times.

5 Q. Because I asked you if you had told the jury for sure that
6 you had told us about every one of them, and you said, "Yes."
7 Correct?

8 A. The ones I remember, yes.

9 Q. Okay. Well, are you saying there's others that you can't
10 remember?

11 A. No.

12 Q. Okay. Now, the first time you saw Dr. Weber was for, I
13 think -- did you say it was for a burn?

14 A. The first time I met him, yeah, I was -- I was thinking.
15 They just asked the first time I met him. I just -- I was --
16 it was a while, yes, and it was for a burn.

17 Q. Well, it can't be wild guesses. I know. It's tough.

18 So what I'm asking you is -- don't guess, but tell
19 us -- do you remember today, while you were under oath, the
20 first time you met him why you were there?

21 A. I'm pretty sure it was for the burn.

22 Q. And on that first occasion, something sexual happened?

23 A. No.

24 Q. Okay. Your mother brought you with your stepfather;
25 correct?

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1 A. Yes.

2 Q. And he treated that burn; correct?

3 A. Yes.

4 Q. And that was at the old hospital or the new hospital?

5 A. Old.

6 Q. And how long between the first occasion that you met him
7 and then your next appointment with him?

8 A. A few weeks.

9 Q. Okay. Do you know why you went back the second time?

10 A. For asthma.

11 Q. And who brought you?

12 A. My mom.

13 Q. And did your mother and stepfather come or just your
14 mother?

15 A. It was just my mom.

16 Q. And did she come into the examination room?

17 A. No.

18 Q. And am I correct that the way the old hospital was set up
19 there were chairs literally outside the exam room where your
20 mother waited?

21 A. Yes.

22 Q. And she would have been within a foot to 2 feet of the
23 door; correct?

24 A. Yes.

25 Q. And the door was closed or open?

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1 A. It was more like a curtain.

2 Q. I'm sorry?

3 A. It was more like a curtain.

4 Q. There actually wasn't a door. It was kind of just a
5 curved wall. Am I right?

6 A. Yes, like a curtain.

7 Q. Okay. And she was literally outside; correct? Right
8 outside that curve?

9 A. I don't know where she was or wasn't.

10 Q. Well, you remember you guys waited right there. Remember?
11 So before you saw him -- I want you to think about this.
12 Before you went into this room, you literally sat right outside
13 the room on a couple chairs waiting; correct?

14 A. Yes.

15 Q. And then you would go in this room, and there was no door.
16 There was just the room where Dr. Weber was; correct?

17 A. Yes.

18 Q. And so I'm also clear, it was the second time when there
19 was an event that occurred?

20 A. Can you ask that again?

21 Q. Sure.

22 The second time that you saw Dr. Weber, is that when
23 one of these events that you've described occurred?

24 A. Yes.

25 Q. Okay. Your mother is there. And also, so that we can put

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1 this in perspective, there are nurses that come in and out of
2 that room; correct?

3 A. Not really.

4 Q. You don't remember a nurse coming in?

5 A. No.

6 Q. You do you remember telling Dr. -- or I'm sorry -- Mr. --
7 Agent Muller -- I'll get it right, sorry -- that, in fact, a
8 nurse came in? Remember having that conversation with him?

9 A. I don't remember talking about a nurse coming in, no.

10 Q. All right. Now, the second time you go in there for
11 asthma. And if I got it right, there had been no visits
12 between the first and the second, in terms of, you hadn't seen
13 him on the streets. You hadn't seen him anywhere at the
14 hospital. Correct?

15 A. Correct.

16 Q. And you go in there, and that's when you describe the
17 second encounter; correct? I'm sorry. The first encounter on
18 the second occasion; correct?

19 A. Yes.

20 Q. And that lasted for how long?

21 A. A second.

22 Q. A second.

23 And so I'm clear, he did not touch your penis during
24 that encounter, did he?

25 A. If he -- he did if -- said he -- you know, he put his --

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1 had his hands, you know, cupped, you know, on my balls --

2 Q. And did he ask --

3 A. -- and coughing.

4 Q. He was coughing or --

5 A. No. He asked me to cough.

6 Q. Okay. He asked you. So if I got this right, he has his
7 hands cupped around your testicles and asked you to cough;
8 correct?

9 A. Yes.

10 Q. And that lasted a second; correct?

11 A. Yeah, it didn't take long.

12 Q. Okay. And he didn't touch your penis; correct?

13 A. (No oral response.)

14 Q. Am I correct?

15 A. Correct.

16 Q. All right. And then you go home with your mother;
17 correct?

18 A. (No oral response.)

19 Q. Yes?

20 A. No.

21 Q. Do you -- when you leave, how do you leave? Did your mom
22 take you?

23 A. That wasn't all that happened.

24 Q. I'm sorry?

25 A. That wasn't everything that happened.

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1 Q. Oh, I know. You talked about the anal insertion; correct?

2 A. Yeah.

3 Q. Okay. So I want to talk about, at the end of that, did
4 you go home with your mother?

5 A. Yes.

6 Q. Did you appear upset to her?

7 MR. STARNES: Objection. Calls for speculation.

8 THE COURT: I'll allow it if he remembers.

9 BY MR. STEINBERG:

10 Q. Correct? Am I right? You didn't seem upset to her, or
11 she didn't say, "What's wrong?" Nothing like that took place;
12 right?

13 A. No.

14 Q. Am I right?

15 A. You're right.

16 Q. And you at no time said, "Hey, I don't want to go see that
17 doctor again. I didn't like him. I just don't want to see
18 him." You never said that either, did you?

19 A. She wouldn't have listened to me anyways.

20 Q. I understand. But did you ever say that?

21 A. No.

22 Q. Okay. The third occasion, is this now at the new
23 hospital, or are we still at the old hospital?

24 A. The new.

25 Q. And the new hospital had the same tight quarters; correct?

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1 A. No.

2 Q. The lighting was better?

3 A. Yes.

4 Q. Was there doors to the examination room at the new
5 hospital, or was it the same curved situation with no doors?

6 A. There was hallways and doors.

7 Q. Okay. This is the first time where there were doors;
8 correct?

9 A. Yes.

10 Q. Now, on the third occasion, as I understand it, how much
11 time had lapsed from the second until the third?

12 A. Like I said before, it was a few weeks, maybe about a
13 month.

14 Q. Okay. And, by the way, you are facing drug charges in the
15 State of Montana?

16 A. No.

17 Q. What is your pending case in Montana?

18 A. I'm just here for this.

19 Q. Okay. So I misunderstood, and I'm -- it's because I
20 didn't ask.

21 You are facing drug charges in South Dakota?

22 A. Drug charge?

23 Q. Yeah.

24 A. Not really, no.

25 Q. What's your pending case?

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1 A. Ingestion.

2 Q. I'm sorry?

3 A. Ingestion.

4 Q. Ingestion of what?

5 A. Methamphetamine.

6 Q. Okay. So that's a drug charge; right?

7 A. Yeah, it's an ingestion charge.

8 Q. Okay. Now, on the third occasion, describe the room. You
9 are now in a new hospital. So tell me what the room looked
10 like. Do you recall?

11 A. It was -- I could -- I still go there to this day, so I
12 can explain it to you just like the same way it is.

13 Q. And am I right that nurses come in and out of there?

14 A. No, you are not right.

15 Q. So no one ever comes in and out?

16 A. No.

17 Q. And --

18 A. The only time the nurse sees you is in the first -- when
19 they take your vitals and they weigh you. And then you wait,
20 and then the doctor comes in. And then after that, the nurses
21 don't ever come in or out.

22 Q. And how old were you on the last occasion?

23 A. On the last occasion?

24 Q. Yes, that you've described. I think that was --

25 A. I was around 10 years old.

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1 Q. And what year would that have been? Would that have been
2 '96? I thought I heard you were born in '86. Am I correct?

3 A. November '86, yeah. I think -- end of '87; right?

4 Q. Yes, sir.

5 A. Yeah.

6 Q. So it was towards the end of '87?

7 A. No, I was born in '86, November.

8 Q. Of '97?

9 A. '86.

10 Q. Right. I'm sorry. So would it have been around
11 November -- when was the last occasion? '97? '96?

12 A. I don't remember the years.

13 Q. Do you remember how old you were?

14 A. Yeah, I was around 10 years old.

15 Q. And why were you there to see him on this last occasion?

16 A. Last time was -- last time I -- last time I seen Weber,
17 you know, for then was for a physical.

18 Q. And that's when -- and did you go to the hospital by
19 yourself, or were you accompanied by an adult?

20 A. By an adult.

21 Q. And who was that?

22 A. At that time it was my mom.

23 Q. Okay. And --

24 A. No, this time it was my stepdad.

25 Q. I'm sorry? Your step?

DANIEL MARTIN - CROSS-EXAMINATION BY MR. STEINBERG

1 A. My stepdad.

2 Q. Your stepdad was on the last occasion?

3 A. Yeah.

4 Q. Were you close to him?

5 A. Well, kind of.

6 Q. Okay. Now, is this the only time that Dr. Weber performed
7 oral sex on you?

8 A. The last time?

9 Q. The last time. I have written down -- this was the fourth
10 time you described, and you said that he performed oral sex on
11 you. And I was wondering, was this the only time he performed
12 oral sex on you?

13 A. No.

14 Q. I'm sorry?

15 A. No.

16 Q. One other time?

17 A. Yes.

18 Q. When was that?

19 A. It was before.

20 Q. Which time was that?

21 A. I couldn't -- I couldn't tell you.

22 Q. You can't tell me?

23 A. Yeah.

24 Q. Well, let me help you out. You testified here a few
25 minutes ago that on the third occasion was the occasion that he

DANIEL MARTIN - CROSS-EXAMINATION BY MR. STEINBERG

1 had anal sex with you, and that, after the anal sex, he
2 performed oral sex on you.

3 Do you remember that?

4 A. Yes.

5 Q. Is that the other time, or do you -- are you -- or you're
6 not certain that that occurred?

7 A. I said there were several times. When I was talking with
8 Curt, I explained, you know, four of the times that I really
9 remembered. I said there were several times in between because
10 it happened over, you know, a period of a couple years.

11 Q. Okay. Because when you spoke with Mr. Muller on the third
12 occasion, you never said anything about the oral sex; correct?

13 A. I never spoke with Muller on a third occasion. I only
14 spoke with him one time.

15 Q. I understand. When I said, "occasion," I guess I'm not
16 being clear.

17 I'm talking about four events that you described.
18 Today, to the jury, you said on the third event that that --
19 there was anal sex and afterward there was oral sex.

20 A. Yes.

21 Q. When you spoke to Agent Muller, you never told him
22 anything about oral sex on the third occasion, did you?

23 A. On the third?

24 Q. If you don't remember, you can tell me.

25 A. You know, if I --

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1 Q. I'm sorry?

2 A. If I would have sat there long enough and took time to
3 think about, you know, all of the times, maybe I could piece
4 all of it together. But I'm sorry. I was a kid. All of it
5 just seemed like it all happened at once.

6 Q. Okay.

7 A. I'm sorry.

8 Q. Well --

9 A. Next you're going to ask me what color his pubic hairs
10 are.

11 Q. So what I'm wondering is, are you piecing this together as
12 we go along?

13 A. No.

14 Q. In preparation for your testimony today, did you meet with
15 anyone?

16 A. In preparation?

17 Q. Sure. Did you meet with any of the prosecutors or
18 Agent Muller before today?

19 A. They came to visit me.

20 Q. And when they came to visit you, did they talk about your
21 testimony?

22 A. No.

23 Q. They just spent how much time with you?

24 A. Maybe about 5 minutes.

25 Q. So you never heard any tape? You never went over any

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1 documents?

2 A. They asked if I wanted to look at the papers, but I told
3 them no.

4 Q. So you spent 5 minutes, and that was it?

5 A. Yeah. They just came to apologize for me having to sit in
6 jail for this.

7 Q. Well, you'd have to sit in jail in South Dakota, though;
8 right?

9 A. I would have been out on a \$50 bond.

10 MR. STEINBERG: Okay. Could I have a moment, Judge?

11 THE COURT: You may.

12 (Off-the-record discussion between Mr. Steinberg and
13 Mr. Cox)

14 MR. STEINBERG: Thank you, Judge.

15 THE COURT: Redirect, Mr. Starnes?

16 MR. STARNES: No, Your Honor.

17 THE COURT: Is the witness excused?

18 MR. STARNES: Yes, please.

19 THE COURT: You may step down, sir. Thank you.

20 (Whereupon the trial continued.)

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REPORTER'S CERTIFICATE

REPORTER'S CERTIFICATE

I, Yvette Heinze, a Registered Professional Reporter and Certified Shorthand Reporter, certify that the foregoing transcript is a true and correct record of the proceedings given at the time and place hereinbefore mentioned; that the proceedings were reported by me in machine shorthand and thereafter reduced to typewriting using computer-assisted transcription; that after being reduced to typewriting, a certified copy of this transcript will be filed electronically with the Court.

I further certify that I am not attorney for, nor employed by, nor related to any of the parties or attorneys to this action, nor financially interested in this action.

IN WITNESS WHEREOF, I have set my hand at Great Falls, Montana, this 3rd day of January, 2019.

/s/ Yvette Heinze

Yvette Heinze
United States Court Reporter